

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JEFFREY TODD DENTON,

Defendant-Appellant.

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UNPUBLISHED

May 22, 2001

No. 220812

Genesee Circuit Court

LC No. 99-004154-FC

Before: McDonald, P.J., and Smolenski and K. F. Kelly, JJ.

MEMORANDUM.

Defendant appeals as of right from convictions of three counts of first-degree criminal sexual conduct, MCL 750.520b(1)(a); MSA 28.788(2)(1)(a), for which he was sentenced as an habitual offender, second offense, MCL 769.10; MSA 28.1082, to concurrent terms of 40 to 60 years in prison. We decide this appeal without oral argument pursuant to MCR 7.214(E). We affirm.

Defendant first contends that the trial court erred in allowing a police officer to testify under MRE 803(2) as to what the victim told her about the abuse. We review the trial court's ruling on this matter for an abuse of discretion. *People v Kowalak (On Remand)*, 215 Mich App 554, 558; 546 NW2d 681 (1996). Any error in the trial court's ruling is not grounds for reversal unless it appears more probable than not that the error was outcome determinative. *People v Lukity*, 460 Mich 484, 495-496; 596 NW2d 607 (1999).

We agree that the trial court abused its discretion in admitting the evidence under MRE 803(2) because the circumstances surrounding the victim's statements to the police officer indicate that the statements were neither spontaneous nor made while the victim was still under the influence of the excitement caused by the abuse. *Berryman v Kmart Corp*, 193 Mich App 88, 100-101; 483 NW2d 642 (1992). However, we conclude that the officer's testimony was admissible under MRE 801(d)(1)(B) to rebut an implied charge of recent fabrication or improper motive on the part of the victim. Defendant's trial theory was that the victim had fabricated the alleged abuse and that she had lied because she resented defendant's attempts to discipline her. The prior consistent statement tended to rebut those claims. This Court will not reverse when the trial court reaches the correct result for the wrong reason. *People v Lyon*, 227 Mich App 599, 612-613; 577 NW2d 124 (1998).

Defendant next contends that the trial court erred in allowing the victim's mother to testify regarding certain statements by the victim. We conclude that the mother's testimony was also admissible under MRE 801(d)(1)(B) to rebut an implied charge of recent fabrication or improper motive on the part of the victim. The testimony involved defendant's accusations that the victim was lying and the victim's protestations that she was truthfully accounting abuse that occurred. Further, because the testimony does not appear to have been outcome determinative, defendant is not entitled to relief on the basis of this unpreserved issue. *People v Carines*, 460 Mich 750, 763-764; 597 NW2d 130 (1999).

Affirmed.

/s/ Gary R. McDonald  
/s/ Michael R. Smolenski  
/s/ Kirsten Frank Kelly